

1 UNITED STATES DISTRICT COURT

2 SOUTHERN DISTRICT OF TEXAS

3 — — —

4 THE HONORABLE VANESSA D. GILMORE, JUDGE PRESIDING

5 UNITED STATES OF AMERICA, No. 4:20-cr-00522-1

6 Plaintiff,

7 vs.

8 LEE E. PRICE, III,

9 Defendant.

10 SENTENCING HEARING

11 OFFICIAL REPORTER'S TRANSCRIPT OF PROCEEDINGS

12 Houston, Texas

13 November 29, 2021

14 APPEARANCES:

15 For the Plaintiff: Matthew G. Grisier  
Andrew Tyler

16  
17 For the Defendant: Thomas S. Berg

18 Reported by: Nichole Forrest, RDR, CRR, CRC  
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21 Southern District of Texas  
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22 Proceedings recorded by mechanical stenography. Transcript  
23 produced by Reporter on computer.  
24  
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## PROCEEDINGS

(The following proceedings held in open court.)

\* \* \*

THE COURT: United States of America versus  
Lee Price. For the United States?

Who is here for the United States?

MR. GRISIER: Matthew Grisier with Andrew  
Tyler.

THE COURT: Who did you say?

MR. GRISIER: I apologize, Your Honor.  
Matthew Grisier for the United --

THE COURT: Grisier?

MR. GRISIER: Yes. With me is co-counsel,  
Andrew Tyler.

THE COURT: Tyler? All right.

For the defendant, please?

MR. BERG: Tom Berg.

THE COURT: Mr. Berg.

We're here this morning for sentencing.

Mr. Grisier, has the United States had a  
chance to review the presentence investigation report and  
addendum to that report?

MR. GRISIER: Yes, we had.

THE COURT: Mr. Berg, did you and your

10:39:30 1 client get a chance to review the presentence  
10:39:32 2 investigation, as well as the addendum to that report?

10:39:35 3 MR. BERG: We did.

10:39:36 4 THE COURT: Then presentence investigation  
10:39:37 5 and addendum will be placed into the record under seal.  
10:39:41 6 In the event there is any appeal of this case, the only  
10:39:43 7 portion that will not be disclosed will be that portion  
10:39:45 8 that contains a sentencing recommendation from the  
10:39:48 9 probation department to the Court.

10:39:51 10 There were objections by the United States  
10:39:56 11 and by the defense.

10:39:57 12 Let me turn first to the government's  
10:40:00 13 objection. The government essentially objects to the  
10:40:06 14 calculation, basically the base-offense-level issue, which  
10:40:12 15 I've looked at and looked at again with the probation  
10:40:16 16 department.

10:40:17 17 And I think that the probation department  
10:40:19 18 got it right. When we have to go back and look at 2B1.1  
10:40:27 19 in calculating it, it comes out to be a 27.

10:40:52 20 I guess it's y'all's position you think it  
10:40:55 21 should be 28. We should use A and not B?

10:41:00 22 MR. GRISIER: That's correct, Your Honor.

10:41:01 23 THE COURT: Have you looked at it again  
10:41:02 24 since you looked at the addendum?

10:41:04 25 MR. GRISIER: I have, Your Honor, as has

10:41:05 1 co-counsel. Representation that I have is that  
10:41:09 2 essentially what we did was calculate using  
10:41:15 3 2S1.1(a)(1)(A) --

10:41:15 4 THE COURT: I have to go back to B; to  
10:41:19 5 B1.1. It refers me back. I have to look at 2B1.1; then I  
10:41:24 6 have to look at B.

10:41:25 7 MR. GRISIER: It's the 2S1.1(a)(2) that  
10:41:28 8 refers back to 2B1.1. We're looking at 2S1.1(a)(1).

10:41:32 9 THE COURT: I know. But then you've got a  
10:41:35 10 1957. I have to go back to 2B1.1. You started out as 18  
10:41:40 11 USC Section 1957.

10:41:43 12 Anyway, the government's objection is  
10:41:45 13 overruled. I think that it's a 27 and not a 28.

10:41:50 14 MR. GRISIER: Understood.

10:41:51 15 THE COURT: I think it's appropriately  
10:41:52 16 calculated by the probation at the lower number.

10:41:57 17 I think that's the only objection of yours  
10:41:59 18 that you had that hasn't been addressed by the addendum.  
10:42:02 19 Is that correct?

10:42:02 20 MR. GRISIER: That is correct, Your Honor.

10:42:04 21 THE COURT: Then let me go to the  
10:42:07 22 defendant's objection.

10:42:09 23 Mr. Berg, your objections are essentially  
10:42:12 24 that you don't think that he should get the specific  
10:42:15 25 offense characteristic in paragraph 50 for the more than

10:42:19 1 one million because he got less than a million dollars  
10:42:22 2 from each of the two banks that he defrauded and that I  
10:42:25 3 should not aggregate those amounts for the \$1.7 million  
10:42:30 4 that he got to give him the plus-two.

10:42:33 5 Is that basically it?

10:42:34 6 MR. BERG: That is basically it. That is  
10:42:36 7 how I read those provisions.

10:42:38 8 THE COURT: The objection is overruled.

10:42:39 9 And then the second objection is to  
10:42:41 10 essentially paragraph 53, the obstruction of justice.

10:42:45 11 Look, really? He's going to try to say he  
10:42:52 12 didn't obstruct. He's going out there telling witnesses  
10:42:56 13 not to talk to the government; that's obstruction. That's  
10:42:59 14 like ridiculous.

10:43:01 15 So that objection is overruled.

10:43:05 16 On the other hand, I will give you the  
10:43:06 17 three points for acceptance of responsibility because he  
10:43:10 18 did at least try to accept responsibility at the end.  
10:43:12 19 I'll give you the three points for acceptance of  
10:43:15 20 responsibility. That takes the total offense level in  
10:43:18 21 paragraph 57 to 26, which changes the guideline range in  
10:43:26 22 paragraph -- changes the guideline range in paragraph 105,  
10:43:38 23 I guess it is, to -- that changes that to 110 to 137.

10:43:55 24 Does it change the fine range?

10:43:59 25 THE PROBATION OFFICER: The bottom of the

10:43:59 1 fine range is 25,000.

10:44:01 2 THE COURT: Then the fine range in  
10:44:04 3 paragraph --

10:44:20 4 THE PROBATION OFFICER: I believe it's  
10:44:21 5 114.

10:44:22 6 THE COURT: That changes the range from  
10:44:25 7 \$25,000 to \$4,045,265.46.

10:44:32 8 Mr. Berg, was there any other factual  
10:44:34 9 inaccuracies in the report that could have an impact on  
10:44:39 10 sentencing at all?

10:44:40 11 MR. BERG: No, Your Honor.

10:44:40 12 THE COURT: The Court adopts the  
10:44:42 13 presentence investigation report and the addendum with the  
10:44:45 14 changes that the Court has just made today. Finds that  
10:44:47 15 the statutory range of punishment on Counts 1 and 2 is not  
10:44:51 16 more than 20 years; Counts 3, 4, 5, not more than ten  
10:44:55 17 years. Supervised release on Counts 1 through 5 not more  
10:45:00 18 than three years. Fine \$4,045,265.46. Restitution  
10:45:10 19 \$1,689,952. Special assessment is \$500.

10:45:14 20 Under the sentencing guidelines, based on  
10:45:17 21 the total offense level of 26, Criminal History Category  
10:45:19 22 of V, provides for a guideline range of 110 to 137 months.  
10:45:25 23 Supervised release term of one to three years. Fine range  
10:45:30 24 \$25,000 to \$4,045,265.46. Restitution \$1,689,952.  
10:45:41 25 Special assessment is \$500.

10:45:44 1 All right, Mr. Berg, would you like to say  
10:45:49 2 anything on behalf of your client?

10:45:51 3 MR. BERG: Well, my client -- I would like  
10:45:53 4 him to speak first.

10:45:55 5 THE COURT: He wants to speak first?

10:45:56 6 MR. BERG: Yes. He and I spent a long  
10:45:58 7 time getting to this point where he can speak well as to  
10:46:02 8 his circumstances.

10:46:04 9 THE COURT: All right. That's fine.

10:46:05 10 Mr. Price, what would you like to say?

10:46:11 11 THE DEFENDANT: I wrote a letter to you as  
10:46:17 12 well I stand before you guilt.

10:46:33 13 THE COURT: Speak into the mic. I want to  
10:46:35 14 be able to hear what you're saying.

10:46:36 15 THE COURT REPORTER: Excuse me, Your  
10:46:36 16 Honor, I can't hear the defendant.

10:46:36 17 THE COURT: Speak up.

10:46:36 18 THE DEFENDANT: I stand before you a  
10:46:38 19 guilty man. Guilty of having made a terminal mistake and  
10:46:41 20 all honesty, it was mistake because you knew better  
10:46:44 21 (indiscernible) would bring --

10:46:46 22 THE COURT: Slow down. I want to hear  
10:46:48 23 what you're saying. You need to go slower and a lot  
24 louder.

25 THE COURT REPORTER: Your Honor, I cannot

1 hear the defendant.

2 (Due to defendant's mask and inadequate  
3 sound system, defendant's statement could not be  
4 reported.)

10:51:03 5 THE COURT: Did you look at your criminal  
10:51:05 6 history?

10:51:06 7 You don't have a year since you were 15  
10:51:08 8 that you weren't involved in something in the criminal  
10:51:10 9 justice system. Not one year. Every single year; 27  
10:51:16 10 different offenses charged against you since you were 15  
10:51:18 11 years old. I have never seen a criminal history like  
10:51:21 12 this. You haven't tried to do anything with your life at  
10:51:28 13 all. What is the deal?

10:51:32 14 Talk to me. Stop reading stuff to me.  
10:51:34 15 Talk to me.

10:51:36 16 THE DEFENDANT: That's kind of the first  
10:51:37 17 time I actually had which I knew -- I have -- I'm -- when  
10:51:42 18 I actually had there and look at it. It was more of a --

10:51:54 19 THE COURT: This is you. Every single  
10:51:58 20 year since you were 15, 16 years old you've had an  
10:52:04 21 allegation of a crime. You didn't get convicted of all of  
10:52:06 22 them. Some of them they just let go because you got  
10:52:10 23 convicted of other crimes. So they kind of rolled them  
10:52:13 24 all together.

10:52:14 25 I couldn't believe it. It's page after



10:52:16 1 page after page after page. This guy -- I look at your  
10:52:22 2 family history, and it doesn't look like this is the kind  
10:52:24 3 of life you should have had based on that family that you  
10:52:33 4 came from. It doesn't look like it goes together.

10:52:36 5 You got a GED, went to college for a  
10:52:38 6 minute, and then you just decided that you were just going  
10:52:43 7 to be a thief. You just kind of made up your mind one  
10:52:46 8 day, I'm just going to be a thief or what?

10:52:48 9 THE DEFENDANT: No. I think it was -- I  
10:52:51 10 was running with a lot of (indiscernible) when I came out  
10:52:53 11 here to Houston, I started college at Texas Southern. I  
10:52:58 12 ran with a lot of older crowds that were -- and no way on  
10:53:03 13 the right path.

10:53:04 14 THE COURT: Uh-huh.

10:53:05 15 THE DEFENDANT: So I kind of got pulled  
10:53:08 16 towards a certain direction. Honestly, at that time  
10:53:10 17 coming up, I enjoyed it. I liked it. It was a life that  
10:53:15 18 I chose. And as growing up and now obviously having a  
10:53:20 19 child now and seeing, you know, exactly how much it's  
10:53:25 20 costing me, and just watching news recently, I was seeing  
10:53:29 21 so many deaths popped up, I decided what if I had died?  
10:53:33 22 Now when I got really -- my obituary that was something  
10:53:38 23 that I could not (indiscernible) myself.

10:53:45 24 THE COURT: What's your future plan?

10:53:47 25 THE DEFENDANT: I enrolled in school. I

10:53:49 1 plan on taking my credits. I'm working on curriculum.  
10:53:54 2 I'm following it, but they don't offer mail  
10:53:57 3 correspondence. I been working on university that I can  
10:54:00 4 transfer courses. Put the work in getting my degree in  
10:54:05 5 sociology.

10:54:06 6 And I do plan on -- hopefully I'm going  
10:54:11 7 into real estate investment full time; not just jumping  
10:54:17 8 fences, hurdling the fence with illegal and legal --

10:54:21 9 THE COURT: You need to slow your roll.  
10:54:26 10 You're just 30 years old, and you have this much criminal  
10:54:30 11 history. You need to slow your roll. You'll be dead  
10:54:33 12 before you're 40.

10:54:34 13 This doesn't make any sense. It literally  
10:54:38 14 doesn't make any sense. You have a dad who retired from a  
10:54:44 15 job that he spent 30 years in, a good job, and a mom who  
10:54:51 16 is doing good stuff, and parents who were trying to figure  
10:54:56 17 out how to make the best of the divorce situation and go  
10:55:01 18 back and having an opportunity to be parented by both  
10:55:05 19 parents. This makes literally no sense.

10:55:16 20 Then you mess up your mom's house by  
10:55:19 21 putting money on her house. You messed up her deal. What  
10:55:25 22 did you do pay off the mortgage or something?

10:55:27 23 THE DEFENDANT: Yes.

10:55:27 24 THE COURT: You thought you were doing her  
10:55:30 25 a favor by paying her mortgage off with stolen money. It

10:55:35 1 didn't turn out to be a good favor. Now she's going to  
10:55:38 2 have a big-ass lien on her house.

10:55:39 3 THE DEFENDANT: Yes.

10:55:40 4 THE COURT: Did you tell her that she had  
10:55:41 5 the lien on her house?

10:55:42 6 THE DEFENDANT: Yes.

10:55:45 7 THE COURT: They work hard in regular  
10:55:47 8 jobs. Then you show up like you're the lottery dude.  
10:55:52 9 That makes no sense at all. Mess up your mom's whole  
10:55:57 10 deal. That makes no sense. You going to mess up her  
10:56:03 11 house that she already lived in -- how long had she lived  
10:56:06 12 in that house before you did that?

10:56:10 13 THE DEFENDANT: Maybe since '97.

10:56:17 14 THE COURT: When?

10:56:18 15 THE DEFENDANT: Maybe since '97.

10:56:21 16 THE COURT: So 20 years. She been paying  
10:56:23 17 on the mortgage for 20 years. Doing fine on her own I  
10:56:26 18 guess.

10:56:27 19 THE DEFENDANT: Yes, Your Honor.

10:56:28 20 THE COURT: Then you come in and you're  
10:56:30 21 like big man on campus and put \$50,000 on her mortgage and  
10:56:35 22 make her seem like it's all good. Now she's got a big  
10:56:39 23 lien from the government on her house that she had already  
10:56:41 24 been paying for 20 years. Mess up her whole deal. Makes  
10:56:54 25 no sense. Then -- after you get out the jail, you going

10:57:02 1 to be a real estate investor? Is that what you said?

10:57:04 2 THE DEFENDANT: Yes, Your Honor. I still  
10:57:06 3 have partial real estate company now that my child's  
10:57:09 4 mother operates that we have together, and I plan on  
10:57:14 5 getting back into the business.

10:57:22 6 THE COURT: Okay. All right.

10:57:26 7 Mr. Berg, would you like to say anything  
10:57:28 8 else on behalf of your client?

10:57:29 9 MR. BERG: I would. My first words to my  
10:57:31 10 client when we met were that a con man above all cons  
10:57:38 11 himself.

10:57:38 12 THE COURT: Pardon me?

10:57:40 13 MR. BERG: A con man above always cons  
10:57:42 14 himself before he cons anybody else. And Mr. Price's  
10:57:45 15 struggle will be, as it has been, in not deceiving himself  
10:57:51 16 as well as deceiving others.

10:57:54 17 Like I said, we've spent months over this  
10:57:58 18 particular issue: Getting him to acknowledge his  
10:58:02 19 responsibility. We got there I think, at least in terms  
10:58:05 20 of acceptance of responsibility for this, and he is taking  
10:58:09 21 some affirmative steps to get more education and a bit  
10:58:16 22 more focus in his life. It will be a battle not to take  
10:58:19 23 the easy way. That is his struggle. And we can only do  
10:58:24 24 so much.

10:58:28 25 And regardless, even with the advantages

10:58:32 1 of the lower sentencing guidelines that we've got, he's  
10:58:35 2 going to do a substantial sentence for this crime. And he  
10:58:41 3 needs -- I've reiterated to him constantly that he needs  
10:58:46 4 to take advantage of that time, to do things that are  
10:58:49 5 positive. If he's to have a relationship with his child,  
10:58:52 6 he's got to work on himself.

10:58:56 7 THE COURT: Absolutely.

10:59:05 8 MR. BERG: But I think he's capable of  
10:59:07 9 doing it. He's talented and intelligent, but it's  
10:59:10 10 misspent.

10:59:15 11 THE COURT: I like that con man's first  
10:59:18 12 con is himself. He's trying to convince himself what he  
10:59:21 13 was doing was some legitimate business deal here. This  
10:59:23 14 was nothing but theft. No different than sticking up a  
10:59:27 15 store. Sticking up a bank.

10:59:34 16 Anything from the United States,  
10:59:37 17 Mr. Grisier?

10:59:38 18 MR. GRISIER: Yes, Your Honor. The  
10:59:39 19 motivating factors here appears to have been the  
10:59:42 20 defendant's guilt -- excuse me, his greed. And as a  
10:59:47 21 result of his greed, the defendant obtained \$1.6 million  
10:59:50 22 in funds set aside by Congress and the Small Business  
10:59:56 23 Administration for small business relief during the  
10:59:58 24 uncertain months of the COVID pandemic.

11:00:01 25 As a result of the defendant's greed that

11:00:04 1 meant that through these fraudulent applications he took  
11:00:07 2 that money off the table from a qualifying small business  
11:00:10 3 that perhaps needed that money to help make ends meet,  
11:00:14 4 keep employees on the payroll, or meet other qualified  
11:00:16 5 expenses under this Paycheck Protection Program.

11:00:20 6 This was a sophisticated offense, Your  
11:00:24 7 Honor, involving fraudulent information, false personal  
11:00:27 8 identifying information, assumed names. It required  
11:00:31 9 planning on the defendant's part.

11:00:34 10 As a result of that planning, the  
11:00:35 11 defendant obtained this money and spent it not on any  
11:00:38 12 businesses or any approved expense rather but on luxury  
11:00:45 13 cars, a Rolex watch, nightlife and entertainment.

11:00:49 14 But Your Honor has already addressed in  
11:00:50 15 some detail the defendant's criminal history and without  
11:00:54 16 going too much further into it, the government would just  
11:00:57 17 point out that there are echoes of this offense in some of  
11:01:00 18 his previous offenses and convictions, including the use  
11:01:03 19 of false identifying information to obtain luxury  
11:01:09 20 vehicles. That is an offense dating back from 2014. I  
11:01:13 21 believe it's detailed in paragraph 65.

11:01:15 22 THE COURT: Right. Right.

11:01:16 23 MR. GRISIER: Along with that, Your Honor,  
11:01:18 24 shortly after his arrest in this case, after he was placed  
11:01:21 25 on bond, the defendant was -- almost immediately stepped

11:01:25 1 back and had his bond revoked, and he has indeed been in  
11:01:29 2 custody since August 31 of 2020 I believe, well over a  
11:01:33 3 year now.

11:01:35 4 All these things being considered, Your  
11:01:36 5 Honor, the government would ask -- would suggest that  
11:01:40 6 there is a need for deterrence for this particular  
11:01:43 7 defendant, and there is a more general need for  
11:01:45 8 deterrence, as well for the general public.

11:01:48 9 While the Paycheck Protection Program, I  
11:01:50 10 believe, has expired at this time, Your Honor, there is  
11:01:52 11 certainly other emergency relief loan programs that come  
11:01:57 12 about as a result of Congressional authorization, whether  
11:01:59 13 that is due to a hurricane, an economic disaster from time  
11:02:03 14 to time, and there is need for that general deterrence for  
11:02:07 15 the public when these programs come up to not take  
11:02:10 16 advantage of them in the way that the defendant has done.

11:02:12 17 So all those things being considered, the  
11:02:15 18 government would advocate for a sentence within the new  
11:02:19 19 guideline range and specifically on the higher end of that  
11:02:21 20 range, between 130 and 137 months.

11:02:26 21 Also, so we have a clean record as to the  
11:02:28 22 defendant's acceptance, the government is moving for the  
11:02:31 23 additional point --

11:02:32 24 THE COURT: I saw that in your -- I guess  
11:02:37 25 it was in your clarification or objections. It was in

11:02:41 1 your notice of objections and clarification information  
11:02:45 2 with respect to the acceptance of responsibility. So that  
11:02:49 3 was clear to the Court.

11:02:49 4 So when I granted the defendant's  
11:02:52 5 objection with respect to not getting credit for  
11:02:56 6 acceptance of responsibility, I counted that third point  
11:02:58 7 in there. That is how I got to 26. Obviously, you know  
11:03:00 8 that. But I did see that in your statement. So that is  
11:03:06 9 why I included that in there.

11:03:08 10 All right.

11:03:08 11 MR. GRISIER: Thank you, Your Honor.

11:03:14 12 THE COURT: The Court will state the  
11:03:16 13 sentence at this time. The lawyers will have a final  
11:03:20 14 opportunity to make objection before the sentence is  
11:03:23 15 imposed.

11:03:30 16 It is the judgment of this Court that the  
11:03:36 17 defendant, Lee E. Price, III, is hereby committed to the  
11:03:39 18 custody of the Bureau of Prisons to be imprisoned for a  
11:03:42 19 term of 110 months as to Counts 1 through 5. All such  
11:03:47 20 terms to run concurrently, for a total offense term of 110  
11:03:51 21 months.

11:03:53 22 The defendant is before this Court for  
11:03:54 23 sentencing. Having pled guilty to two counts of wire  
11:03:57 24 fraud and three counts of engaging in monetary  
11:04:01 25 transactions in criminally derived property.



1 The defendant submitted five fraudulent  
2 paycheck protection program loan applications for  
3 assistance authorized by the CARES Act in response to the  
4 COVID-19 pandemic. Two of those loans were funded and the  
5 defendant received \$1,689,952 in ill-gotten loan proceeds.  
6 He used those loan proceeds in a manner that is  
7 unpermissible (sic) under the CARES Act and made  
8 outlandish purchases, including buying a 2020 F-350 pickup  
9 truck, a Rolex valued at more than \$9,000, a 2019  
10 Lamborghini worth more than \$200,000 and other  
11 expenditures including going to strip clubs, eating out  
12 and unfortunately paying off the mortgage on his mother's  
13 home.

14 The defendant has an extensive criminal  
15 history, beginning at age 16, which has continued  
16 uninterrupted absent periods of incarceration. His  
17 criminal history is varied and includes convictions for  
18 disorderly conduct, involving discharging a firearm; use  
19 of counterfeit money; theft; delivery of marijuana;  
20 robbery, involving the display of a handgun; driving while  
21 intoxicated; fraudulent use; possession of identification.

22 Numerous other charges were dismissed in  
23 light of convictions entered in other cases. Twenty-seven  
24 arrests and/or convictions in all. The defendant was  
25 subject to a term of deferred adjudication, community

11:05:44 1 supervision at the time of this offense.

11:05:45 2 He was also pending trial in six cases and  
11:05:48 3 had been released on bond in each of those cases. The  
11:05:53 4 defendant's history -- criminal history and conduct in the  
11:05:56 5 instant offense paints a picture of an opportunistic  
11:06:00 6 offender, who is guilty of greed and has been undeterred  
11:06:05 7 by repeated interactions with the criminal justice system.

11:06:10 8 The guidelines appropriately contemplate a  
11:06:12 9 significant term of imprisonment, even while accounting  
11:06:15 10 for exploitation of a program designed to help businesses  
11:06:18 11 in a country struggling with an unprecedented loss due to  
11:06:25 12 the COVID-19 pandemic.

11:06:28 13 A term of imprisonment of 110 months is  
11:06:34 14 something that the Court believes reflects the purposes of  
11:06:38 15 the sentence as set forth in 18 United States Code Section  
11:06:40 16 3553. It reflects the seriousness of the offense. It  
11:06:46 17 will promote respect for the law. It will provide just  
11:06:50 18 punishment. It will deter this defendant and others from  
11:06:52 19 engaging in the same sort of criminal conduct. It will  
11:06:57 20 protect the public from further crimes of this defendant.

11:07:00 21 Upon release from imprisonment, the  
11:07:02 22 defendant shall be placed on supervised release for a term  
11:07:04 23 of three years as to each of Counts 1 through 5. All such  
11:07:08 24 terms to run concurrently.

11:07:12 25 Three-year term of supervised release is

1 imposed in this case to monitor the defendant, as he is  
2 reintegrated in the community to assure that he pays the  
3 restitution owed, and that three-year term is to each of  
4 Counts 1 through 5 to run concurrently.

5           Within 72 hours of release from the  
6 custody of the Bureau of Prisons, the defendant shall  
7 report in person to the probation office in the district  
8 to which the defendant is released.

9           While on supervised release, the defendant  
10 shall not commit another federal, state or local crime;  
11 shall comply with the standard conditions that have been  
12 adopted by this Court; and any mandatory conditions  
13 required by law including the following:

14           You must participate in an outpatient  
15 substance abuse treatment program and follow the rules and  
16 regulations of that program. The probation officer will  
17 supervise your participation in that program, including  
18 the provider, location, modality, duration and intensity.  
19 You must pay the cost of the program, if financially able  
20 to do so.

21           You must not possess any controlled  
22 substance without a valid prescription. If you do have a  
23 valid prescription, you must follow the instructions. You  
24 must submit to substance abuse testing to determine if you  
25 have used a prohibited substance. You may not attempt to

11:08:28 1 obstruct or tamper with the testing methods.

11:08:29 2 You may not use or possess alcohol.

11:08:32 3 You must make restitution to the victims  
11:08:34 4 totaling \$1,689,952 to the following: Harvest Bank,  
11:08:50 5 \$752,452; and the Small Business Administration, \$937,500  
11:08:56 6 for the loan that you received through the Radius Bank.

11:09:03 7 You must provide the probation officer  
11:09:05 8 with any requested access to any requested financial  
11:09:09 9 information and authorized release of that financial  
11:09:12 10 information, and the probation office may share that  
11:09:17 11 information with the U.S. Attorney's Office.

11:09:22 12 The defendant is also ordered not to incur  
11:09:26 13 any new credit charges or open additional lines of credit  
11:09:29 14 without approval of the probation officer.

11:09:32 15 The defendant shall pay to the United  
11:09:32 16 States a special assessment of \$500 due and payable  
11:09:37 17 immediately. The Court finds that the defendant does not  
11:09:40 18 have the ability to pay a fine within the guideline range  
11:09:42 19 in addition to the restitution that is owed. The fine is  
11:09:46 20 waived.

11:09:47 21 The criminal monetary penalties imposed  
11:09:51 22 are due as follows: The defendant shall begin payment  
11:09:55 23 immediately. Any unpaid balance due in the greater of \$25  
11:09:58 24 per quarter or 50 percent of any wages earned while in  
11:10:01 25 prison in accordance with the Bureau of Prisons Inmate

11:10:04 1 Financial Responsibility Program. Any balance remaining  
11:10:06 2 after release from imprisonment shall be due in monthly  
11:10:09 3 installments no less than \$250 per month to commence 30  
11:10:12 4 days after release from imprisonment to a term of  
11:10:15 5 supervised release. Payment is to be made through the  
11:10:17 6 United States District Clerk's Office Southern District of  
11:10:22 7 Texas.

11:10:29 8 Mr. Grisier, any reason why the sentence  
11:10:32 9 should not be imposed?

11:10:33 10 MR. GRISIER: No. I have two points of  
11:10:34 11 clarification to raise possibly. The first is about the  
11:10:37 12 restitution. I want to clarify the victims were Harvest  
11:10:40 13 Small Business Finance and the Small Business  
11:10:43 14 Administration. Radius Bank slash also known as --

11:10:47 15 THE COURT: I said Small Business  
11:10:49 16 Administration for the loan that was originally received  
11:10:51 17 from Radius Bank. I said "Small Business Administration."

11:10:54 18 MR. GRISIER: Perfect. Thank you. The  
11:10:55 19 only other point the government would raise is with regard  
11:10:59 20 to any forfeiture --

11:11:00 21 THE COURT: I'm not there yet. I'm on the  
11:11:02 22 sentence.

11:11:03 23 Any reason why sentence should not --

11:11:05 24 MR. GRISIER: No, I do not.

11:11:05 25 THE COURT: Mr. Berg?

11:11:07 1 MR. BERG: No, Your Honor.

11:11:09 2 THE COURT: The sentence is imposed as  
11:11:10 3 stated.

11:11:11 4 Mr. Price, you can appeal your conviction  
11:11:13 5 if you believe that your guilty plea was somehow unlawful  
11:11:18 6 or involuntary or if you think that there was some other  
11:11:21 7 financial defect in the proceedings that was not waived by  
11:11:23 8 you.

11:11:25 9 With few exceptions, any notice of appeal  
11:11:26 10 must be filed within 15 days of the date that judgment is  
11:11:29 11 entered in this case. If you are without funds to hire an  
11:11:31 12 attorney to represent you, you can apply to the Court for  
11:11:34 13 in forma pauperis status and counsel will be appointed for  
11:11:34 14 you.

11:11:37 15 Do you understand me?

11:11:38 16 THE DEFENDANT: Yes, Your Honor.

11:11:38 17 THE COURT: All right. Now, Mr. Grisier,  
11:11:42 18 we can talk about the forfeiture. The sentence first.  
11:11:46 19 Always trying to make me forget to impose the sentence by  
11:11:49 20 talking about other stuff.

11:11:50 21 MR. GRISIER: I apologize.

11:11:52 22 THE COURT: I have a motion for  
11:11:53 23 preliminary order of forfeiture. Was this unopposed,  
11:11:55 24 Mr. Berg?

11:11:55 25 MR. BERG: That's correct.

11:11:57 1 THE COURT: I had one question on this.

11:12:06 2 Mr. Grisier, were the funds that were  
11:12:11 3 already referenced in the notice to the Court regarding  
11:12:14 4 forfeiture, are those already applied to the restitution?

11:12:19 5 MR. GRISIER: Not to the restitution. But  
11:12:20 6 to the -- they should be, Your Honor. We have the --  
11:12:24 7 there is a process for doing that through -- we ask the  
11:12:28 8 agencies who have seized and forfeited those funds. I  
11:12:31 9 believe it's called remission, where they can accept  
11:12:34 10 petitions. And actually since we'll have a restitution  
11:12:36 11 order in this case, we should be able to get those funds  
11:12:39 12 back to SBA and Harvest as they come in.

11:12:43 13 THE COURT: Okay. So that is the plan  
11:12:44 14 then. Those funds will go to pay off restitution to these  
11:12:49 15 victims?

11:12:50 16 MR. GRISIER: Exactly. My understanding  
11:12:51 17 is they're waiting on the order to come down after the  
11:12:53 18 sentencing.

11:12:54 19 THE COURT: From the Court?

11:12:55 20 MR. GRISIER: Yes, sir.

11:12:57 21 THE COURT: Seems like there was a lot of  
11:12:58 22 cash still left that could go to some of the victims for  
11:13:01 23 the restitution payments; correct?

11:13:02 24 MR. GRISIER: Yes.

11:13:03 25 THE COURT: That will happen?

11:13:04 1 MR. GRISIER: That will happen. And I  
11:13:07 2 believe the vehicles and the Rolex watch have not been  
11:13:09 3 auctioned off or sold at this point by the Postal  
11:13:14 4 Inspection Service. Once those assets have been  
11:13:18 5 liquidated, those funds will be credited --

11:13:22 6 THE COURT: To the victims?

11:13:22 7 MR. GRISIER: Yes.

11:13:23 8 THE COURT: I gotcha. Wanted to make sure  
11:13:25 9 I understood.

11:13:26 10 It hasn't happened yet because we need the  
11:13:32 11 order in place first.

11:13:34 12 MR. GRISIER: That is my understanding.

11:13:34 13 THE COURT: Somebody will get a  
11:13:36 14 Lamborghini for cheap, huh?

11:13:39 15 MR. GRISIER: Indeed, Your Honor.

11:13:40 16 THE COURT: Oh, my goodness.

11:13:44 17 I wanted to make sure that I understood  
11:13:47 18 language I was concerned about, and I wanted to ask you if  
11:13:53 19 this was the way that the language needed to be stated.

11:13:59 20 It says: The real property at 10718  
11:14:02 21 Staghill Drive is forfeited to the United States.

11:14:04 22 And then it says: Pursuant to -- then it  
11:14:07 23 says: Limited to a lien against the property in the  
11:14:09 24 amount of \$50,000.

11:14:11 25 So why does it say that it's forfeited as



11:14:15 1 opposed to just, there is a lien against the property in  
11:14:18 2 favor of the United States in the amount of \$50,000?  
11:14:21 3 What's with that language?

11:14:23 4 MR. GRISIER: I thought that the  
11:14:24 5 limitation would be sufficient to cover that concern. It  
11:14:26 6 was a concern of ours as well. In drawing up the  
11:14:29 7 financial order of forfeiture, we can amend that to make  
11:14:32 8 it clearer -- as clear as possible that it is a lien --

11:14:36 9 THE COURT: I don't really want the words  
11:14:38 10 "forfeited" to be in here. I don't feel comfortable  
11:14:41 11 signing an order saying his mother's property that she  
11:14:45 12 lived and paid a note on for 20 years is being forfeited  
11:14:47 13 to the United States.

11:14:48 14 Why can't we say that the real property is  
11:14:51 15 subject to a lien against the property in the amount of  
11:14:56 16 \$50,000?

11:14:58 17 MR. GRISIER: No reason we can't.

11:14:59 18 THE COURT: That is what I'm going to do.  
11:15:01 19 I don't feel like writing this word that her property is  
11:15:01 20 forfeited to the United States.

11:15:06 21 The real property at Staghill Drive I'm  
11:15:09 22 going to put is "encumbered" instead of "forfeited."

11:15:14 23 MR. GRISIER: Yes, Your Honor.

11:15:19 24 THE COURT: To the United States, limited  
11:15:21 25 to a lien against the property in the amount of \$50,000.

11:15:26 1 And then can she pay on that as well?

11:15:32 2 MR. GRISIER: I'm not sure. That's sort  
11:15:33 3 of the purpose of -- I think there is an ancillary hearing  
11:15:37 4 on that where Ms. Price will be given notice to appear at  
11:15:43 5 that hearing if she wishes to contest it and make  
11:15:45 6 representations that she has.

11:15:47 7 As far as her ability to pay, I'm not sure  
11:15:50 8 what that is. It may also be satisfied at such a time  
11:15:59 9 that the house is sold I believe. It essentially operates  
11:16:03 10 as a lien against the house.

11:16:06 11 THE COURT: I know. But I'm assuming that  
11:16:07 12 the house she lived in for 20 years she didn't have any  
11:16:11 13 immediate plans to put it on the market.

11:16:13 14 MR. GRISIER: I would assume not as well.  
11:16:15 15 At such a time in the future, that may be possible.

11:16:19 16 THE COURT: All right. We have to set --  
11:16:20 17 you want to set a hearing on the final forfeiture?

11:16:24 18 MR. GRISIER: We'll give notice --

11:16:26 19 THE COURT: Because of her situation?

11:16:28 20 MR. GRISIER: Yes, Your Honor. I think  
11:16:29 21 that is covered in Rule 35.

11:16:34 22 THE COURT: She'll have an opportunity to  
11:16:36 23 speak at that point?

11:16:37 24 MR. GRISIER: Yes.

11:16:39 25 THE COURT: All right. Anything else?

11:17:01 1 MR. BERG: No. We had agreed to a lien.  
11:17:03 2 So that is correct.

11:17:06 3 THE COURT: All right. It says that the  
11:17:08 4 home is "encumbered." It's not going to say it's  
11:17:11 5 forfeited. I don't like that.

11:17:18 6 All right. Anything else from the United  
11:17:20 7 States?

11:17:20 8 MR. GRISIER: No, Your Honor. Thank you.

11:17:21 9 THE COURT: Mr. Berg?

11:17:23 10 MR. BERG: My client would request  
11:17:25 11 designation to Bastrop.

11:17:26 12 THE DEFENDANT: Yes.

11:17:27 13 THE COURT: It's the further  
11:17:27 14 recommendation of this Court that the defendant be  
11:17:29 15 incarcerated at Federal Bureau of Prisons Bastrop if that  
11:17:35 16 is available and appropriate.

11:17:36 17 Anything else?

11:17:37 18 MR. BERG: No, Your Honor.

11:17:39 19  
20 (Proceedings concluded.)

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I hereby certify that pursuant to Title 28, Section 753 United States Code, the foregoing is a true and correct transcript of the stenographically reported proceedings in the above matter.

Certified on January 12, 2022.

/s/ Nichole Forrest  
Nichole Forrest, RDR, CRR, CRC